

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

-----X		
SECURITIES AND EXCHANGE	:	
COMMISSION,	:	
	:	
Plaintiff,	:	Civil Action
	:	No. 05-11805-NMG
	:	
v.	:	
	:	
RICHARD F. SELDEN,	:	
	:	
Defendant.	:	
-----X		

NOTICE OF STATUS OF PROCEEDINGS IN THE DISTRICT OF COLUMBIA

In response to this Court's electronic notice of February 8, 2008, the status of proceedings in the District of Columbia action captioned S.E.C. v. Selden, Misc. Case No. 1:05-mc-00476-RMU (D.D.C.), and related appeal captioned S.E.C. v. Selden, et al., Case No. 07-5377 (D.C. Cir.), is as follows:

1. On January 17, 2008, the FDA moved to dismiss its appeal of the Order and Memorandum Opinion, dated April 30, 2007 and published at S.E.C. v. Selden, 484 F. Supp. 2d 105 (D.D.C. 2007), denying the FDA's motion to quash and granting Selden's motion to compel compliance with Selden's subpoena seeking Rule 30(b)(6) testimony from the FDA. (S.E.C. v. Selden, Misc. Case No. 1:05-mc-00476-RMU (D.D.C.) (Docket No. 31) (Docket attached hereto as Exhibit A).) The United States Court of Appeals for the District of Columbia Circuit granted that motion and dismissed the FDA's appeal on February 5, 2008. (S.E.C. v. Selden, et al., Case No. 07-5377 (D.C. Cir.) (Docket attached hereto as Exhibit B).)

2. Richard Selden's motion for a finding of a violation of the District Court for the District of Columbia's April 30, 2007 Order, filed August 20, 2007, as well as the FDA's

motion to strike that motion by Richard Selden, filed August 31, 2007, remain sub judice.

(S.E.C. v. Selden, Misc. Case No. 1:05-mc-00476-RMU (D.D.C.) (Docket Nos. 40 and 43)

(Docket attached hereto as Exhibit A).)

3. No other discovery proceedings are pending in the United States District Court for the District of Columbia.

Dated: February 14, 2008
Boston, Massachusetts

Respectfully submitted,

/s/ Thomas J. Dougherty
Thomas J. Dougherty (BBO #132300)
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Counsel for Defendant

CERTIFICATE OF SERVICE

I, Thomas J. Dougherty, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on February 14, 2008.

Dated: February 14, 2008

/s/ Thomas J. Dougherty
Thomas J. Dougherty

EXHIBIT A

APPEAL

U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:05-mc-00476-RMU

SECURITIES AND EXCHANGE COMMISSION v. SELDEN
Assigned to: Judge Ricardo M. Urbina
Case in other court: 07-05377
Cause: Motion to Compel

Date Filed: 11/23/2005
Jury Demand: None
Nature of Suit: 441 Voting
Jurisdiction: Federal Question

Date Filed	#	Docket Text
11/23/2005	1	MOTION to Compel FDA compliance with subpoenas and request for oral hearing filed by RICHARD F. SELDEN. (Exhibits #A-J)(jsc) (Entered: 11/28/2005)
12/13/2005	2	NOTICE of Appearance by Marina Utgoff Braswell on behalf of UNITED STATES FOOD AND DRUG ADMINISTRATION (jf,) (Entered: 12/15/2005)
12/13/2005	3	MOTION for Extension of Time to 12/13/05 to file a response to defendant Selden's motion to compel by UNITED STATES FOOD AND DRUG ADMINISTRATION. EXHIBIT: (Motion to Quash/Oppositon) (jf,) (Entered: 12/15/2005)
12/15/2005		MINUTE ORDER granting 3 Motion for Extension of Time to file reponse to defendant Selden's Motion to Compel up to and including 12/13/05. Signed by Judge Ricardo M. Urbina on 12/15/05. (djr) (Entered: 12/15/2005)
12/15/2005	4	MOTION for Leave to Appear Pro Hac Vice :Attorney Name- Thomas J. Dougherty. :Address- SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP, One Beacon Street, Boston, MA 02108. Phone No. - (617) 573-4800. by RICHARD F. SELDEN. (ks,) (Entered: 12/16/2005)
12/15/2005	5	MOTION for Leave to Appear Pro Hac Vice :Attorney Name- Justin J. Daniels. :Address- SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP, One Beacon Street, Boston, MA 02108. Phone No. - (617) 573-4800. by RICHARD F. SELDEN. (ks,) (Entered: 12/16/2005)
12/15/2005	6	MOTION for Leave to Appear Pro Hac Vice :Attorney Name- Cale P. Keable. :Address- SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP, One Beacon Street, Boston, MA 02108. Phone No. - (617) 573-4800. by RICHARD F. SELDEN. (ks,) (Entered: 12/16/2005)
12/15/2005	7	MOTION to Quash subpoenas duces tecum by UNITED STATES FOOD AND DRUG ADMINISTRATION. (jf,) (Entered: 12/20/2005)
12/15/2005	8	OPPOSITION to MOTION to Compel FDA compliance with subpoenas and request for oral hearing 1 filed by UNITED STATES FOOD AND DRUG ADMINISTRATION. (jf,) (Entered: 12/20/2005)

12/16/2005		MINUTE ORDER granting motion for admission pro hac vic 4 , 5 , and 6 as to Thomas Dougherty, Justin Daniels, and Cale Keable. Signed by Judge Ricardo M. Urbina on 12/16/05. (djr) (Entered: 12/16/2005)
12/19/2005	9	REPLY in support of MOTION to Compel FDA compliance with subpoenas and request for oral hearing 1 filed by RICHARD F. SELDEN. (jf,) (Entered: 12/20/2005)
12/19/2005	10	Memorandum in opposition to MOTION to Quash subpoenas duces tecum re 7 filed by RICHARD F. SELDEN. (jf,) (Entered: 12/20/2005)
12/27/2005	11	MOTION for Extension of Time to file a response to defendant Selden's opposition to FDA's motion to quash by UNITED STATES FOOD AND DRUG ADMINISTRATION. (jf,) (Entered: 12/29/2005)
12/30/2005	12	Memorandum in Response to 11 Motion for Enlargement of Time filed by RICHARD F. SELDEN. (tg,) (Entered: 01/03/2006)
01/03/2006		MINUTE ORDER granting 11 Motion for Extension of Time to file FDA's response. FDA's response due January 6, 2006. Signed by Judge Ricardo M. Urbina on 1/3/06. (djr) (Entered: 01/03/2006)
01/03/2006		Set Deadlines/Hearings: FDA's Response due by 1/6/2006 (jwd) (Entered: 01/05/2006)
01/05/2006	13	REPLY in support of MOTION to Quash subpoenas duces tecum 7 filed by UNITED STATES FOOD AND DRUG ADMINISTRATION. (jf,) (Entered: 01/06/2006)
01/30/2006	14	NOTICE of Filing by Non-Party FDA by UNITED STATES FOOD AND DRUG ADMINISTRATION (Attachments: # 1 Memorandum Opinion# 2 Order)(Braswell, Marina) (Entered: 01/30/2006)
02/10/2006	15	ORDER holding case in abeyance. Signed by Judge Ricardo M. Urbina on 2/10/06. (djr) (Entered: 02/10/2006)
06/30/2006	16	SUPPLEMENTAL MEMORANDUM addressing applicability of Yousuf Decision to his pending motion to compel FDA compliance with Federal Subpoenas filed by RICHARD F. SELDEN; Attachment (1) (td,) (Entered: 07/05/2006)
06/30/2006	17	SUPPLEMENTAL MEMORANDUM to re 7 MOTION to Quash or modify subpoenas duces tecum filed by UNITED STATES FOOD AND DRUG ADMINISTRATION. (td,) (Entered: 07/05/2006)
08/16/2006	18	ORDER granting 1 Motion to Compel and denying 7 Motion to Quash. Signed by Judge Ricardo M. Urbina on 8/16/06. (djr) (Entered: 08/16/2006)
08/16/2006	19	MEMORANDUM AND OPINION. Signed by Judge Ricardo M. Urbina on 8/16/06. (djr) (Entered: 08/16/2006)
08/25/2006	20	STATUS REPORT , <i>Joint</i> , by UNITED STATES FOOD AND DRUG ADMINISTRATION. (Braswell, Marina) (Entered: 08/25/2006)
10/06/2006	21	NOTICE of Filing by RICHARD F. SELDEN (Attachments: # 1 Exhibit 1# 2 Exhibit 2# 3 Exhibit 3# 4 Exhibit 4# 5 Exhibit 5# 6 Exhibit 6)(Kelly, Michael) (Entered: 10/06/2006)

10/17/2006	22	NOTICE of Court Action in Related Case by RICHARD F. SELDEN (Attachments: # 1 Exhibit A)(Barloon, Joseph) (Entered: 10/17/2006)
11/08/2006	23	Emergency MOTION to Compel Food and Drug Administration Compliance with This Court's August 16, 2006 Order by RICHARD F. SELDEN. (Attachments: # 1 Text of Proposed Order)(Barloon, Joseph) (Entered: 11/08/2006)
11/08/2006	24	MEMORANDUM re 23 Emergency MOTION to Compel Food and Drug Administration Compliance with This Court's August 16, 2006 Order filed by RICHARD F. SELDEN, by RICHARD F. SELDEN. (Attachments: # 1 Tab A# 2 Tab B# 3 Tab C# 4 Tab D# 5 Tab E)(Barloon, Joseph) (Entered: 11/08/2006)
11/20/2006	25	Joint MOTION for Protective Order Governing The Production of FDA Documents by RICHARD F. SELDEN. (Attachments: # 1 Text of Proposed Order)(Barloon, Joseph) (Entered: 11/20/2006)
11/21/2006	26	ORDER granting 25 Motion for Protective Order. Signed by Judge Ricardo M. Urbina on 11/21/06. (djr) (Entered: 11/21/2006)
11/21/2006		MINUTE ORDER denying 23 Motion to Compel as Moot in light of the protective order now governing production of documents. Signed by Judge Ricardo M. Urbina on 11/21/006. (djr) (Entered: 11/21/2006)
02/21/2007	27	MOTION Quash Third-Party Subpoena by UNITED STATES FOOD AND DRUG ADMINISTRATION. (Attachments: # 1 Exhibit # 2 Exhibit # 3 Exhibit # 4 Exhibit # 5 Exhibit # 6 Exhibit # 7 Text of Proposed Order)(Weinstein, Laurie) (Entered: 02/21/2007)
03/05/2007	28	Memorandum in opposition to re 27 MOTION Quash Third-Party Subpoena filed by RICHARD F. SELDEN. (Attachments: # 1 Text of Proposed Order) (Barloon, Joseph) (Entered: 03/05/2007)
03/15/2007	29	REPLY to opposition to motion re 27 MOTION Quash Third-Party Subpoena filed by UNITED STATES FOOD AND DRUG ADMINISTRATION. (Attachments: # 1 Exhibit A)(Braswell, Marina) (Entered: 03/15/2007)
04/30/2007	30	ORDER denying 27 Motion to Quash. Signed by Judge Ricardo M. Urbina on 4/30/07. (djr) (Entered: 04/30/2007)
04/30/2007	31	MEMORANDUM AND OPINION. Signed by Judge Ricardo M. Urbina on 4/30/07. (djr) (Entered: 04/30/2007)
06/29/2007	32	NOTICE OF APPEAL as to 31 Memorandum & Opinion, 30 Order on Motion for Miscellaneous Relief by UNITED STATES FOOD AND DRUG ADMINISTRATION. Fee Status: No Fee Paid. Parties have been notified. (Attachments: # 1 Memorandum Opinion dated April 30, 2007# 2 Order dated April 30, 2007)(Braswell, Marina) (Entered: 06/29/2007)
07/13/2007	33	Joint MOTION for Protective Order by UNITED STATES FOOD AND DRUG ADMINISTRATION (Attachments: # 1 Text of Proposed Order)(Braswell, Marina) (Entered: 07/13/2007)
07/16/2007	34	SUPPLEMENTAL PROTECTIVE ORDER. Signed by Judge Ricardo M. Urbina on 7/16/07. (mpt,) (Entered: 07/16/2007)
08/01/2007	35	NOTICE of Submission by RICHARD F. SELDEN (Barloon, Joseph) (Entered: 08/01/2007)

		08/01/2007)
08/01/2007	36	WITHDRAWN PER STIPULATION FILED 8/23/2007..... MOTION to Compel FDA Compliance with this Court's Discovery Order as Applied to FDA's Bioresearch Monitoring Unit by RICHARD F. SELDEN (tg,) (FILED UNDER SEAL) Modified on 8/29/2007 (jwd,). (Entered: 08/02/2007)
08/09/2007	37	Unopposed MOTION for Extension of Time to File Response/Reply by UNITED STATES FOOD AND DRUG ADMINISTRATION (Weinstein, Laurie) (Entered: 08/09/2007)
08/09/2007		MINUTE ORDER granting 37 Motion for Extension of Time to File Response. Response due on or before 8/23/2007. The court notes that this is the FDA's THIRD motion for an extension of time. It directs the parties to thoroughly review the court's standing order for civil cases for any future matters. Signed by Judge Ricardo M. Urbina on 08/09/07. (dbk) (Entered: 08/09/2007)
08/09/2007	38	CIVIL STANDING ORDER. Signed by Judge Ricardo M. Urbina on 08/09/07. (dbk) (Entered: 08/09/2007)
08/09/2007		Set Deadlines/Hearings: Response due on or before 8/23/2007 (jwd) (Entered: 08/09/2007)
08/20/2007	39	NOTICE OF SUBMISSION by RICHARD F. SELDEN (Barloon, Joseph) (Entered: 08/20/2007)
08/20/2007	40	MOTION for a Finding of a Violation of this Court's April 30, 2007 Order. Attachments: Exhibits A - H and a VHS tape) by RICHARD F. SELDEN (tg,) (FILED UNDER SEAL) (Entered: 08/21/2007)
08/23/2007	41	STIPULATION re 36 MOTION to Compel by UNITED STATES FOOD AND DRUG ADMINISTRATION, RICHARD F. SELDEN. (Braswell, Marina) (Entered: 08/23/2007)
08/31/2007	42	NOTICE of Filing Under Seal by UNITED STATES FOOD AND DRUG ADMINISTRATION (Braswell, Marina) (Entered: 08/31/2007)
08/31/2007	43	MOTION to Strike 40 MOTION for a Finding of a Violation of this Court's April 30, 2007 Order. by UNITED STATES FOOD AND DRUG ADMINISTRATION. (FILED UNDER SEAL) (jf,) (Entered: 09/04/2007)
09/12/2007	44	NOTICE OF SUBMISSION by RICHARD F. SELDEN (Barloon, Joseph) (Entered: 09/12/2007)
09/12/2007	45	Memorandum in opposition to 43 FDA's MOTION to Strike and REPLY memorandum of law in further support of his Motion for a finding of a violation of the Court's 4/30/07 Order filed by RICHARD F. SELDEN; Exhibits A through D. (FILED UNDER SEAL) (jeb,) (Entered: 09/17/2007)
09/12/2007	46	REPLY memorandum of law in further support of his Motion for a finding of a violation of the Court's 4/30/07 Order 40 and OPPOSITION to FDA's Motion to strike filed by RICHARD F. SELDEN; Exhibits A through D. (Docket Entry 45 is duplicate of this document)(FILED UNDER SEAL) (jeb,) (Entered: 09/17/2007)
09/19/2007	47	REPLY to opposition to 43 MOTION to Strike 40 MOTION for Order filed by UNITED STATES FOOD AND DRUG ADMINISTRATION. (FILED UNDER

		SEAL). (jf) (Entered: 09/20/2007)
11/07/2007		Transmission of Notice of Appeal and Docket Sheet to US Court of Appeals re 32 Notice of Appeal, (jf,) (Entered: 11/07/2007)
11/21/2007		USCA Case Number 07-5377 for 32 Notice of Appeal, filed by UNITED STATES FOOD AND DRUG ADMINISTRATION. (jf,) (Entered: 11/21/2007)

EXHIBIT B

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General Docket

US Court of Appeals for the DC Circuit

D.C. Circuit Court of Appeals

Court of Appeals Docket #: 07-5377

Filed: 11/21/07

Nsuit: 2441 Civil Rights: Voting

SEC v. Selden, Richard, et al

Appeal from: United States District Court

Lower court information:

District: 0090-1 : 05mc00476

lead: 05mc00476

Trial Judge: Ricardo M. Urbina, US District Judge

Date Filed: 11/23/05

Date order/judgment: 4/30/07

Date NOA filed: 6/29/07
-----Fee status: waived-US or DC gvt.

Prior cases:

None

Current cases:

None

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07-5377 SEC v. Selden, Richard, et alSECURITIES AND EXCHANGE
COMMISSION

Plaintiff - Appellee

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v.

RICHARD SELDEN

Defendant - Appellee

Joseph L. Barloon

202-371-7322

[COR LD NTC ret]

Skadden, Arps, Slate, Meagher &

Flom LLP

1440 New York Avenue, NW

Washington, DC 20005-2111

202-371-7000

v.

FOOD & DRUG ADMINISTRATION
Appellant

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07-5377 SEC v. Selden, Richard, et al

Securities and Exchange Commission

Plaintiff - Appellee

v.

Richard Selden

Defendant - Appellee

v.

Food & Drug Administration


Appellant

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07-5377 SEC v. Selden, Richard, et al

11/21/07 CIVIL-US CASE docketed. Notice of Appeal filed by Appellant
FDA. [1081632-1] (mam)


12/5/07  CLERK'S ORDER filed [1084692] directing Appellant to file
[1084692-1] : docketing statement due 1/4/08 for SEC ;
certificate of counsel due 1/4/08 for SEC ; statement of
issues due 1/4/08 for SEC ; lower court decision due 1/4/08
for SEC ; any procedural motions due 1/4/08 for SEC ;
deferred appendix notice due 1/4/08 for SEC ; appearance
form due 1/4/08 for R. Craig Lawrence ; any dispositive
motions due 1/22/08 for SEC ;, directing Appellee to file
[1084692-2] : certificate of counsel due 1/4/08 for Richard
Selden ; any procedural motions due 1/4/08 for Richard
Selden ; appearance form due 1/4/08 for Joseph L. Barloon ;
any dispositive motions due 1/22/08 for Richard Selden ; .
[Entry Date: 12/5/07] (mam)

1/4/08 ENTRY OF APPEARANCE filed by Attorney Joseph L. Barloon for
Appellee Richard Selden [1091520-1] . (joet)

1/8/08 INITIAL SUBMISSIONS filed by Appellee Richard Selden

[1091917-1] : certificate of counsel. (joet)

1/17/08 MOTION filed (5 copies) by Appellant FDA (certificate of service dated 1/17/08, by mail) to dismiss case [1096064-1]. (lvs)

2/5/08  CLERK'S ORDER filed [1097141] of appellant's motion to dismiss appeal, it is ORDERED that the motion be granted [1096064-1], and this case is hereby dismissed. The Clerk is directed to transmit forthwith to the district court a certified copy of this order in lieu of formal mandate [1097141-1]. [Entry Date: 2/5/08] (lvs)

2/5/08 MANDATE ISSUED to Clerk, District Court [1097191-1]. (lvs)

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